

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3121 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DHARMENDRAKUMAR G PANDEY

Versus

GUJARAT HIGHER SECINDARY EDUCATION BOARD

Appearance:

MR KB PANDE for Petitioner

MR JOSHI FOR MR VIJAY H PATEL for Respondents

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 16/12/96

ORAL JUDGEMENT

Rule. Service of Rule waived by Mr.P.R.Joshi, appearing for Mr. V.H.Patel, learned Advocate for the respondents.

This petition under Article 226 of the Constitution of India is directed against the order of penalty (Annexure : D) dated 9.1.1996, whereby the

petitioner's result of the Higher Secondary School Certificate Examination has been cancelled and the petitioner has been debarred from appearing in the examination to be conducted in March & October, 1997. The allegation against the petitioner was that less number of paper sheets were found from his answer books of Maths I, Maths II and Biology than appearing on the answer sheets themselves. A regular inquiry was conducted against him and ultimately it was found that the petitioner was responsible for missing paper sheets of the answer books of Maths I, Maths II and Biology.

Having heard the learned Advocates for the parties and having gone through the facts of the case, I am of the opinion that the Inquiry Committee is required to consider the question of penalty afresh as apparently the penalty appears to be disproportionate to the charges levelled against the petitioner. In that view of the matter the question is required to be considered by the Inquiry Committee afresh. Following direction is, therefore, issued :

The penalty imposed upon the petitioner is hereby quashed and set aside and the question regarding quantum of penalty is directed to be considered afresh by the Enquiry Committee within a period of three weeks from the date of receipt of writ of this direction. It is made clear that in case the penalty is reduced to debar the petitioner from appearing in the examination upto October, 1996, the petitioner might be permitted to appear in the examination to be held in March, 1997 as a special case by accepting his form after the expiry of the period in that respect. It is further made clear that these observations will not come in the way of the Enquiry Committee in reconsidering the question of penalty.

Rule is made absolute in the aforesaid terms. No order as to costs.

Direct service permitted.

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